

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ESTES EXPRESS LINES
3901 West Broad Street
Richmond, Virginia 23230

Plaintiff

CIVIL ACTION

NO. 1:05-cv-00670-KAJ

v.

NEW CASTLE TRUCK REPAIR AND
MANUFACTURING, INC.
1009 River Road
New Castle, Delaware 19720

Defendant

**APPLICATION FOR ENTRY
OF DEFAULT JUDGMENT**

ELECTRONICALLY FILED

Plaintiff Estes Express Lines ("Estes"), pursuant to Rule 55(b) of the Federal Rules of Civil Procedure, requests the entry of default judgment against defendant New Castle Truck Repair and Manufacturing, Inc. ("New Castle"), for freight charges in the amount of thirty-four thousand four hundred two dollars and sixty-eight cents (\$34,402.68), plus interest and costs of this action. In support thereof, plaintiff avers the following:

This matter arises from an agreement entered into between Estes and New Castle for the movement of freight by motor carrier.

During the time period of August 2004 through February 2005, Estes moved freight for New Castle and presented New Castle with freight bills for each movement, totaling \$34,402.68, plus accrued interest.

Despite Estes' repeated demands for payment of freight charges in accordance with the terms of the governing freight tariff, New Castle has failed to make full and complete payment on the freight bills.

The total amount of freight charges due and owing by New Castle to Estes is presently \$34,402.68, plus accrued interest.

On September 14, 2005, Estes filed a Complaint with the U.S. District Court for the District of Delaware seeking payment from New Castle for the outstanding balance of \$34,402.68, plus accrued interest. See Complaint, with invoices, attached as Exhibit "A."

On September 26, 2005, the Complaint was served upon New Castle. See Executed Return of Service attached as Exhibit "B."

As of the date of filing this Application, New Castle has not filed a responsive pleading to the Complaint. The time for filing a responsive pleading is long past due.

As no responsive pleading was filed by New Castle, an Entry of Default was entered by the Clerk of the Court against New Castle on March 15, 2006. See Civil Docket Report attached as Exhibit "C."

As set forth in the Affidavit of David S. Jones, Estes is entitled to damages as follows:

Amount claimed in Complaint.....\$34,402.68

See Affidavit of David S. Jones attached as Exhibit "D."

WHEREFORE, plaintiff Estes Express Lines respectfully requests that a default judgment be entered in its favor and against defendant New Castle Truck Repair and Manufacturing, Inc. in the amount of \$34,402.68, plus interest and costs.

Respectfully submitted,

SILVERMAN, McDONALD &
FRIEDMAN

By: /s/ Brian E. Lutness
Brian E. Lutness, Esquire
DE Bar ID: 3572
1010 North Bancroft Parkway, Suite 22
Wilmington, DE 19805
Telephone: (302) 888-2900
Fax: (302) 888-2923

E-mail: lutness@juno.com

OF COUNSEL:

Kenneth J. Grunfeld, Esquire
Chad D. Mountain, Esquire
JANSSEN & KEENAN P.C.
One Commerce Square
2005 Market Street, Suite 2050
Philadelphia, PA 19103
215-665-8888 phone
215-665-8887 fax
E-mail: kgrunfeld@janssenkeenan.com
E-mail: cmountain@janssenkeenan.com

Attorneys for Plaintiff
Estes Express Lines

Dated: April 18, 2006